



**UNITED STATES DEPARTMENT OF COMMERCE**  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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000201  
UNILEVER  
PATENT DEPARTMENT  
45 RIVER ROAD  
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IM22/1030

EXAMINER

PADEN, C

ART UNIT

PAPER NUMBER

1761

8

DATE MAILED: 10/30/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/454774

Applicant(s)

Vaardengen

Examiner

Paden

Group Art Unit

1761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 8-24-00
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-17 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 2
- ☒ Notice of Reference(s) Cited, PTO-892.
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joy of Cooking as further evidenced by Carotenoids and Kesharlal in view of Hallstrom .

Joy of Cooking discloses carrots in bunches where carrots are steamed or cooked, skinned, reheated and then served by pouring melted butter over the carrots (see page 296). The claims appear to differ from Joy of Cooking in the recital that the carrots contain carotenoids in a particular amount and that the butter contains phytosterols in a particular amount. Carotenoids is relied upon to show that carrots contain 1 g of carotene from 1 kg of carrots. Hallstrom teaches a butter substitute that contains phytosterol that is made according to the recipe shown at column 13, lines 18-24. The phytosterol is in a different phase from the carotenes because the carotene is in the carrots and the phytosterol is in the butter substitute. Also one would expect the carotenoids to be present in chromoplasts or chloroplasts because they are utilized as naturally available in the carrots. It would be obvious to one of ordinary skill in the art to substitute the butter substitute of Hallstrom for the butter of Joy of Cooking in order to utilize a low cost alternative to butter. It is appreciated that lycopene and beta carotene are not suggested but carrots are known in the art to contain these compounds as evidenced by Kesharlal at column 7, lines 60-67. It is also appreciated that the exact food ingredient of claim 13 is not shown in Joy of

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Cooking but to comminute a cooked carrot in order to prepare baby food or in order to prepare a food product for someone who cannot chew is an obvious way to serve a food. Also carrots are well known in the art as a vegetable component in a main meal.

Claims 15-17 are process claims. Joy of Cooking at page 70 shows the preparation of a taco sauce that contains butter and green chilis with other ingredients. This product is made by combining all of the ingredients and simmering the product. Although green chilis are used in this product, red chilis and peppers are well known in the art to contain carotenoids as shown on pages 586-587 of Joy of Cooking. The claims appear to differ from Joy of Cooking in the recital of the inclusion of a plant sterol. Hallstrom teaches a butter substitute that contains phytosterols. It would be obvious to one of ordinary skill in the art to use the butter substitute of Hallstrom as the fat or oil source in Joy of Cooking because they are equivalent ingredients. It is appreciated that the ratio of phytosterol of carotenoids is not particularly set forth but it is the examiners position that the ratio of these ingredients would depend from the amount of butter substitute used in the product.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear in claim 1 as to what the intended serving size is in the product. An amendment to the claim particularly setting forth the intended serving size in grams would overcome the rejection. In claim 1 it is unclear if applicant intends to indicated that "extensive

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heat treatment" is a treatment of above 70C or not. An amendment to the claims clarifying this issue would overcome the rejection. Also Claim 13 has (extracts of) in parenthesis and it is unclear if this phrase is intended to be the form of the ingredient or not. An amendment to the claims clarifying this issue would overcome the rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn Paden whose telephone number is (703) 308-3294. The examiner can normally be reached on Monday to Friday from 8:30 to 4:00.

The fax phone number for this Group is (703) 305-3599 or 305-7718.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

*Carolyn Paden*  
CAROLYN PADEN 10-26-00  
PRIMARY EXAMINER  
GROUP 1300-1767